



## **Testimony to the Public Health Committee**

**Presented by Mag Morelli, President of LeadingAge Connecticut**

**February 25, 2019**

**Regarding**

**Senate Bill 375, An Act Concerning Nursing Home Staffing Levels**

Good afternoon Senator Abrams, Representative Steinberg and members of the Public Health Committee. My name is Mag Morelli and I am the President of [LeadingAge Connecticut](#), a statewide membership association representing not-for-profit provider organizations serving older adults across the continuum of aging services, including not-for-profit skilled nursing facilities, residential care homes, home health care agencies, hospice agencies, adult day centers, assisted living communities, senior housing and life plan communities. On behalf of LeadingAge Connecticut I am pleased to provide testimony on *Senate Bill 375, An Act Concerning Nursing Home Staffing Levels*.

The bill before you today proposes to require the adequate reporting of the number of nursing home staff in order to ensure the safety and well-being of nursing home residents. Fortunately, we believe that recent changes in the mandated federal requirements for reporting and posting of nursing home staffing levels now provides the adequate reporting that this bill is seeking. We therefore would like to propose language that would raise the minimum staffing levels as is currently proposed in other bills this session, coordinate the state mandated reporting of staffing data with this new federal system, and promote the use of the consumer-oriented Nursing Home Compare federal website.

### **The New Federal CMS Payroll Based Journal (PBJ) System of Collecting and Reporting Nursing Home Staffing Data**

In April of 2018, the Centers for Medicare and Medicaid Services (CMS) began utilizing nursing home payroll data collected through what is called the [Payroll Based Journal \(PBJ\)](#) data system, to calculate the case mix adjusted staffing levels for the federal Medicare CMS [Nursing Home Compare](#) website. It is on this website that a consumer can read the actual direct care staffing hours, as well as see how those hours convert to the five-star quality rating system. The data is submitted electronically and updated quarterly.

Prior to this PBJ system, CMS relied on staffing data manually collected once a year by the state surveyors at the time of the annual inspection. That data was based on just this specific two-week time period. The deficiencies in this former system were recognized by the federal

government and as a result, Section 6106 of the Affordable Care Act (ACA) now requires facilities to electronically submit direct care staffing information (including agency and contract staff) based on payroll and other *auditable* data.

As a result of the ACA mandate, CMS developed the PBJ system for nursing facilities to electronically submit staffing and census information on a quarterly basis. According to the CMS website, “This system allows staffing and census information to be collected on a regular and more frequent basis than previously collected. It is also auditable to ensure accuracy.”

The staffing data collected through the PBJ system is then posted on the CMS Nursing Home Compare website and is reported by hours of staff per day and by level of licensure or certification. The site is updated quarterly and CMS has already used the system to identify nursing homes with lower weekend staffing levels and has issued new enforcement requirements based on these findings.

The following is a sample of the staffing data that is available to consumers on the CMS Nursing Home Compare website.

Staffing			
<p>The information in this section includes registered nurses (RN), licensed practical/vocational nurses (LPN/LVN), nurse aides, and physical therapists (PT). Physical therapists are not included in the “all staffing” star rating.</p> <p>The “staffing” star rating takes into account that some nursing homes have sicker residents and may therefore need more staff than other nursing homes whose residents are not as sick.</p>			
	ALZHEIMERS RESOURCE CENTER OF CONNECTICUT	CONNECTICUT AVERAGE	NATIONAL AVERAGE
Staffing rating	★★★★★ Much Above Average		
Average number of residents per day	117.6	103.7	86.0
Total number of licensed nurse staff hours per resident per day	1 hour and 12 minutes	1 hour and 29 minutes	1 hour and 33 minutes
RN hours per resident per day	44 minutes	43 minutes	40 minutes
LPN/LVN hours per resident per day	28 minutes	45 minutes	53 minutes
Nurse aide hours per resident per day ⓘ	3 hours and 25 minutes	2 hours and 15 minutes	2 hours and 20 minutes
Physical therapist staff hours per resident per day ⓘ	2 minutes	7 minutes	7 minutes
Registered Nurse (RN) staffing only			
<p>Registered nurses (RNs) are licensed healthcare professionals who are responsible for the coordination, management and overall delivery of care to the residents. Some nursing home residents who are sicker than others may require a greater level of care, and nursing homes that have more RN staff may be better able to meet the needs of those residents.</p>			
Registered Nurse (RN) staffing rating	★★★★★ Much Above Average		
Average number of residents per day	117.6	103.7	86.0
RN hours per resident per day	44 minutes	43 minutes	40 minutes
<a href="#">How to read staffing charts</a>   <a href="#">About staff roles</a>			



## Daily Posting of Staffing Data

Nursing homes are also required to post nurse staffing information on a daily basis and the manner and contents of the display are also governed by federal certification requirements that are enforced by the Department of Public Health. The daily nurse staffing posting compliance guidelines established by CMS are as follows:

1. The nurse staffing information will be posted on a daily basis and will contain the following information:
  - a. Facility name
  - b. The current date
  - c. Facility's current resident census
  - d. The total number and the actual hours worked by the following categories of licensed and unlicensed staff directly responsible for resident care per shift:
    - i. Registered Nurses
    - ii. Licensed Practical Nurses/Licensed Vocational Nurses
    - iii. Certified Nurse Aides
2. The facility must post the nurse staffing data at the beginning of each shift.
3. The information posted must be:
  - a. Presented in a clear and readable format.
  - b. In a prominent place readily accessible to residents and visitors.
4. A copy of the schedule must be available to all supervisors to ensure the information posted is up-to-date and current.
  - a. The information shall reflect staff absences on that shift due to call-outs and illness. After the start of each shift, actual hours must be updated to reflect such.
  - b. Staffing shall include all nursing staff who are paid by the facility (including contract staff). Any staff not paid for by the facility, such as hospice staff or individuals hired by families, shall not be included.
5. Nursing schedules and posting information must be maintained in the Human Resources Department for review for at least 18 months or according to state law, whichever is greater.
6. The facility must, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.

### Reference:

Centers for Medicare & Medicaid Services, Department of Health and Human Services. *State Operations Manual (SOM): Appendix PP Guidance to Surveyors for Long Term Care Facilities*. (November 2017 Revision) F732 – Posted Nurse Staffing Information 42 C.F.R. §483.35(g) (1)-(4).

## Proposed New Statutory Language

In that the new federal requirements offer accurate, auditable and consumer friendly posting of nursing home staffing levels, we propose the following statutory language that would raise the minimum staffing levels as is currently proposed in other bills this session, coordinate the state mandated reporting of staffing data with the new federal system, and promote the use of consumer-oriented Nursing Home Compare federal website. The proposed language states a 2.3 hours per day minimum ratio as that was a level agreed upon in previous years, but we are open to discussing the minimum level requirement.

### *AN ACT CONCERNING NURSING HOME FACILITY MINIMUM STAFFING LEVELS.*

*(NEW) (Effective from passage) (a) As used in this section, (1) "nursing home facility" means a chronic and convalescent nursing home, and (2) "nursing staff" means registered and licensed practical nurses licensed pursuant to chapter 378 of the general statutes and nurse's aides registered pursuant to chapter 378a of the general statutes.*

*(b) On and [after October 1, 2019](#), each nursing home facility shall have sufficient nursing staff available on site to maintain a daily minimum staffing ratio of not less than two and three-tenths nursing staff hours per resident.*

*(c) If any nursing home facility experiences increased costs or expenditures due to compliance with the provisions of this section, the Department of Social Services shall adjust such facility's Medicaid rates and provide payment for any such costs or expenditures within a reasonable period of time and retroactive to the date of such increased costs or expenditures.*

*(d) To verify compliance with this section, the Commissioner of Public Health shall use the Long Term Care (LTC) Facility Nurse Staffing Payroll-Based Journal data collected and reported for each facility pursuant to federal requirements, as posted on the federal government's Nursing Home Compare site.*

*(e) The commissioner shall take measures to promote consumer awareness of the Nursing Home Compare site.*

*(f) The Commissioner of Public Health may adopt or amend regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.*

Thank you for this opportunity to testify on this bill. Please consider us to be a resource to you as you consider this and other issues related to aging services.

Mag Morelli, President of LeadingAge Connecticut  
[mmorelli@leadingagect.org](mailto:mmorelli@leadingagect.org), (203) 678-4477, 110 Barnes Road, Wallingford, CT 06492  
[www.leadingagect.org](http://www.leadingagect.org)